



Request for City Council Committee Action From the Department of Public Works

Date: May 6, 2003
To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee
Referral to: Honorable Barb Johnson, Chair Ways & Means Committee

Subject: **Approval of maintenance and easement agreement commencing 1/1/03 between the City of Minneapolis and Rock Properties (commonly known as "OPUS") for the portion of skyway in the "OPUS Ramp" lying between the Government Center Municipal Parking Ramp and Hennepin County Government Center**

Recommendation:

1. That proper City officials be authorized to terminate its "Clarel Agreement" (as approved by the City Council on 1/14/83) and negotiate a new easement and operating agreement with Rock Properties commencing 1/1/03 for the portion of the skyway within the "OPUS Ramp" between the Government Center Municipal Parking Ramp and City owned skyway crossing Fourth Avenue South to the Hennepin County Government Center.

Previous Directives:

- Clarel Corporation Skyway Agreement, approved by City Council 1/14/1983
- Authority for design, removal, maintenance of skyway, City Council 1/13/1990

Prepared by: Mike Sachi, Parking and Skyway Systems Engineer, 673-2159

Approved by: Klara A. Fabry, Director of Public Works

Jon Wertjes, P.E., Assistant Director Transportation and Parking Services

Presenters: Mike Sachi, Parking and Skyway Systems Engineer

Financial Impact (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☒ Action provides increased revenue
- ☐ Action requires use of contingency or reserves
- ☐ Other financial impact (Explain):
- ____ Request provided to the Budget Office when provided to the Committee Coordinator

Background/Supporting Information:

City owned skyways connecting to privately or publicly owned buildings typically carry two kinds of contracts: maintenance and easement agreements. The use of these skyway agreements is direct: maintenance agreements address who cleans, repairs and maintains skyway areas while easement agreements describe what rights each owner has in connecting to and using the adjoining skyway.

The skyway crossing from the City's Government Center Municipal Parking Ramp to the Hennepin County Government Center is one of Minneapolis' oldest. When first built it ran over vacant property owned by Clarel Corporation. Maintenance and easement issues in this first skyway were addressed in a 1983 contract referred to as the "Clarel Agreement." The Clarel agreement survived for several years and was held by several owners because it was written to be passed from owner to owner

The Clarel Agreement is in need of updating for a number of reasons, many of which were not clearly seen in 1983. For example, the original skyway over Clarel's vacant land was removed to make room for the OPUS parking ramp. When the OPUS Ramp was built, it was constructed to contain the skyway in the ramp itself. Now, the OPUS Ramp is on the market and Hennepin County wants to add to the Government Center skyway system. In summary, development has changed much since 1983 and more is planned. Consequently, the Government Center skyway may still be in use, but the contractual principles of the Clarel Agreement which control it need to be modernized.

Rock Properties agrees the Clarel agreement should be terminated and a new contract created. Staff will take the following approaches in negotiating the new skyway agreement. Assistance from a City attorney will be used to give these contractual terms more detail:

- The agreement will be in effect for as long as the skyway remains in place, subject to certain termination provisions.
- Indemnification, if used, will be reciprocal
- The City will not procure insurance for private skyways
- Each party will share the cost of maintenance. Maintenance responsibilities will be defined but will be subject to Public Works modification from time to time.
- Responsibilities for damage and repair will be better defined
- Standards and responsibilities of operation will be set with formulas for cost to be assigned to each with budgets to be approved by Public Works.

Funds received from this agreement will be deposited in the Parking Fund.

Attachments 1 - Schematic of skyway area
2 - 1984 illustration of Government Center skyway from City ramp after Clarel sale

C: Tim Blazina, Manager of Off Street Parking